

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| DAVID HOOKS, Individually and     | § |                           |
| On Behalf of All Others Similarly | § |                           |
| Situated,                         | § |                           |
|                                   | § |                           |
| Plaintiff,                        | § |                           |
|                                   | § |                           |
| v.                                | § | CIVIL ACTION NO. H-12-173 |
|                                   | § |                           |
| LANDMARK INDUSTRIES, INC., d/b/a  | § |                           |
| TIMESWIDE FOOD STORES,            | § |                           |
|                                   | § |                           |
| Defendant.                        | § |                           |

**ORDER ADOPTING MAGISTRATE JUDGE'S**  
**MEMORANDUM AND RECOMMENDATION**

Having reviewed the Magistrate Judge's Memorandum and Recommendation entered on July 11, 2013,<sup>1</sup> the court is of the opinion that said Memorandum and Recommendation should be **ADOPTED**.

It is, therefore, **ORDERED** that the Memorandum and Recommendation is hereby **ADOPTED** by this court.

A class is certified for:

All non-customers who made an electronic fund transfer, from an account used primarily for personal or household purposes, between November 12, 2010, through [the date on which Defendant came into compliance with the ATM Fee posting requirements of the EFTA], at the ATM operated by Defendant at 1200 League Line Road, Conroe, Texas, and who were charged a "Terminal Fee."<sup>2</sup>

Plaintiff shall submit a proposed certification notice to the court within fourteen days of the date of this Order.

The Clerk shall send copies of this Order to the respective

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<sup>1</sup> The parties filed no objections to the Memorandum and Recommendation.

<sup>2</sup> Doc. 33, Pl.'s Mot. for Class Cert. pp. 4-5.

parties.

**SIGNED** at Houston, Texas, this 30<sup>th</sup> day of July, 2013.

  
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SIM LAKE  
UNITED STATES DISTRICT JUDGE